

JUDGES COPY

1 MICHAEL COSENTINO SBN 83253
2 ATTORNEY AT LAW
2 PO BOX 129
3 ALAMEDA, CA 94501
3 Telephone: (510) 523-4702

4 COUNSEL FOR THE UNITED STATES
5 OF AMERICA, PLAINTIFF

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7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,) Case No. C99-01739M

12 Plaintiff,)

13 v.)

14 Kimberly A. Avila aka
15 Kimberly A. Sobiech,)

16 Defendant,) **WRIT OF CONTINUING
17 and) GARNISHMENT**

18 Kasier Permanente,)

19 Garnishee.)

20 TO: Payroll Department
21 Kasier Permanente
22 2101 Webster Street, 3rd Fl.
23 Oakland, CA 94612

24 YOU ARE HEREBY COMMANDED TO GARNISH FOR THE BENEFIT OF
25 THE UNITED STATES OF AMERICA THE WAGES, SALARY, OR COMMISSION IN
26 YOUR CUSTODY, CONTROL, OR POSSESSION IN WHICH THE DEFENDANT-
27 JUDGMENT DEBTOR HAS AN OWNERSHIP INTEREST.

28 The name and last known address of the person who is the defendant-

1 judgment debtor (hereinafter "debtor") in this action and whose property is subject to
2 this Writ are as follows:

3 Kimberly A. Avila aka Kimberly A. Sobiech
4 20446 Forest Avenue Apt.#13
5 Castro Valley, CA 94546

6 This Writ has been issued at the request of the United States of America to
7 enforce the collection of a civil judgment entered in favor of the United States against
8 the debtor for a defaulted student loan in the amount of \$3,104.18. There is a balance
9 of \$5,096.30 due on the judgment, which amount includes costs and interest
computed through 10/24/2011.

10 The following are the steps that you must take to comply with this Writ. If you
11 have any questions, you should consult with your attorney.

12 1. Pursuant to 28 U.S.C. § 3205(c)(2)(F), if you have in your custody, control,
13 or possession any property of the debtor, including wages, salary, or commissions, in
14 which the debtor has a substantial nonexempt interest, or if you obtain custody,
15 control, or possession of such property while this Writ is in effect, you must
16 immediately withhold such property from the debtor and retain it in your possession
17 until you receive instructions from the Court which will tell you what to do with the
18 property. The United States has requested that the sum of 25% of the debtor's
19 disposable earnings, which under California law represents the nonexempt portion of
20 the debtor's earnings, be withheld from the defendant's earnings.

21 2. Pursuant to 28 U.S.C. § 3205(c)(2)(E), you are required to answer this Writ
22 within 10 days after service of this Writ upon you. You must answer the Writ even if
23 you do not have in your custody, control, or possession any property of the debtor.
24 Pursuant to 28 U.S.C. § 3205(c)(4), your answer must state, under oath, the following
25 information:

26 a. Whether or not you have in your custody, control, or possession, any
27 property owned by the debtor in which the debtor has a substantial

9 For your convenience, a form which addresses the above-requested information is
10 attached and may be used to Answer the Writ.

11 3. After you complete the answer under oath, pursuant to 28 U.S.C. §
12 3205(c)(2)(E) & (c)(4), within ten (10) days after service of this Writ upon you, you
13 must mail or deliver the original Answer bearing the original signature of the person
14 preparing the answer to the Court at the following address:

15 Clerk, United States District Court
16 450 Golden Gate Avenue, 16th Floor
P. O. Box 36060
San Francisco, CA 94102

18 At the same time that you mail or deliver the original answer to the Court, you must
19 also mail or deliver a copy of the original Answer to both the debtor and attorney for
20 the United States at the following respective addresses:

21 Kimberly A. Avila aka Kimberly A. Sobiech
22 20446 Forest Avenue Apt.#13
Castro Valley, CA 94546

23 Michael Cosentino, Attorney at Law
24 P.O. Box 129
Alameda, CA 94501

25 Please note that the attached form Answer contains a certificate of service which
26 needs to be completed by the person mailing the copies of the answer to the debtor
27 and the attorney for the United States, and which needs to be filed along with the

1 Answer.

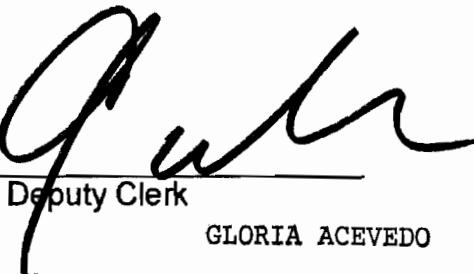
2 **IF YOU FAIL TO ANSWER THIS WRIT OR FAIL TO WITHHOLD PROPERTY**
3 **IN ACCORDANCE WITH THIS WRIT, THE UNITED STATES MAY PETITION THE**
4 **COURT FOR AN ORDER REQUIRING YOU TO APPEAR BEFORE THE COURT TO**
5 **ANSWER THE WRIT AND TO WITHHOLD PROPERTY IN ACCORDANCE WITH**
6 **THE WRIT BEFORE THE APPEARANCE DATE. IF YOU FAIL TO APPEAR OR DO**
7 **APPEAR AND FAIL TO SHOW GOOD CAUSE WHY YOU FAILED TO COMPLY**
8 **WITH THIS WRIT, THE COURT WILL ENTER A JUDGMENT AGAINST YOU FOR**
9 **THE VALUE OF THE DEBTOR'S NONEXEMPT INTEREST IN SUCH PROPERTY**
10 **(INCLUDING NONEXEMPT DISPOSABLE EARNINGS). THE COURT MAY ALSO**
11 **AWARD A REASONABLE ATTORNEY'S FEE TO THE UNITED STATES AND**
12 **AGAINST YOU IF THE WRIT IS NOT ANSWERED WITHIN THE TIME SPECIFIED**
13 **HEREIN AND IF THE UNITED STATES FILES A PETITION REQUIRING YOU TO**
14 **APPEAR.**

15 RICHARD W. WIEKING, Clerk
16 United States District Court
17 for the Northern District of California

18 Dated: 11-2-11

19 By: _____

20 Deputy Clerk

21 
22 GLORIA ACEVEDO

23

24

25

26

27

28

1 DO NOT WITHHOLD THE EXEMPT PORTION OF THE EMPLOYEE'S EARNINGS
2

3 1. Earnings include any money (whether called wages, salary, commissions,
4 bonuses, or anything else) paid for personal services, pension, or retirement.
Vacation or sick pay is earnings subject to withholding as it is *received* by the
employee.

5 2. Disposable earnings are different from gross pay or take-home pay. They
6 are the earnings left after deducting the part which state or federal law requires an
employer to withhold as mandatory deductions. Generally, these mandatory
7 deductions are federal income tax, social security (FICA) tax, state income tax, state
disability insurance, and payments to public employee retirement systems.
Disposable earnings can change from pay period to pay period, whenever gross pay
8 or required deductions change.

9 To determine earnings that¹ are eligible for withholding, and therefore must be
withheld, see the chart below.

10 USE THE CHART BELOW TO DETERMINE NONEXEMPT DISPOSABLE
11 EARNINGS AND THE APPLICABLE WITHHOLDING AMOUNT¹:

12 Pay Period: Weekly or oftener	13 Every 2 weeks	14 Twice a month	15 Once a month	
16 Disposable earnings:	17 \$ 0 to 18 \$217.50	19 \$ 0 to 20 \$435.00	21 \$ 0 to 22 \$471.25	23 \$ 0 to 24 \$942.50
25 Withhold:	26 Nothing (entire earnings are exempt)			
27 Disposable earnings:	28 \$217.51 to 29 \$290.00	30 \$435.01 to 31 \$580.00	32 \$471.26 to 33 \$628.33	34 \$942.51 to 35 \$1,256.67
36 Withhold:	37 Amt. over 38 \$217.50	39 Amt. over 40 \$435.00	41 Amt. over 42 \$471.25	43 Amt. over 44 \$942.50
45 Disposable earnings:	46 \$290.01 47 or more	48 \$580.01 49 or more	50 \$628.34 51 or more	52 \$1,256.68 53 or more
54 Withhold:	55 25% of disposable earnings (balance is exempt)			

28 ¹Based on the Federal Minimum Wage Earnings of \$7.25 an hour, effective 07/24/2009

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,) Case No. C99-01739M
12 Plaintiff,)
13 v.)
14 Kimberly A. Avila aka)
15 Kimberly A. Sobiech,)
16 Defendant,)
17 and)
18 Kasier Permanente,) ANSWER OF GARNISHEE
19 Garnishee.)
20

21 I, _____, being first duly sworn, hereby state the following:

22 1. I am the _____ (Official Title) of the Garnishee

23 named in the above caption. I am authorized to prepare this Answer on behalf of the
24 Garnishee.

25 2. The Garnishee was served with the Writ of Continuing Garnishment on
26 _____ (date) in this action.

27 3. The Garnishee currently has custody, control, or possession of earnings of
28 the Defendant. Yes _____ No _____

4. The Garnishee expects to obtain custody, control, or possession of earnings

1 of the Defendant in the foreseeable future. Yes No

2 5. For the pay period in effect on the date of service of this Writ of Continuing
3 Garnishment, the Garnishee states as follows:

4 a. Defendant was in my/our employ. Yes No

5 b. The Defendant's pay period is _____ weekly, _____ bi-weekly,
6 _____ semi-monthly, _____ monthly.

7 c. The Defendant's present pay period began on _____ (date).
8 ("Present" means the pay period in which the Writ of Continuing
Garnishment was served.)

9 d. The Defendant's present pay period ends on _____ (date).

10 e. The Defendant's net wages are as calculated below:

11 (1) Gross Pay

12 (2) Federal income tax \$

13 (3) F.I.C.A. tax \$

14 (4) State income tax \$

15 (5) SDI \$

16 Total tax withholdings 63

17

6. Are there any other garnishments currently in effect? Yes No

21 If the answers is yes, describe below and attach to this Answer a copy of each garnishment:

23
24
25 7. Will the Garnishee owe the Defendant money in the foreseeable future?
26 Yes No If the answer is yes, provide the reason why such money will be
27 owed, the amount of money that will be owed, and the date or dates on which each
28

1 payment will be due:

2
3 Type of
Payment

4 Amount

5 Date Payment
Will be Due

6 1. _____

7 _____

8 _____

9 2. _____

10 _____

11 _____

12 3. _____

13 _____

14 _____

15 8. Does the Garnishee currently have custody, control or possession of property
16 (other than earnings) such as bank accounts, pensions, thrift plans, etc., in which the
17 Defendant maintains an interest? Yes _____ No _____ If the answer is yes, then
18 provide the following information for each item of such property:

19 Description of
20 Property

21 Approximate
Value

22 Description of
Defendant's Interest

23 1. _____

24 _____

25 _____

26 2. _____

27 _____

28 _____

29 3. _____

30 _____

31 _____

32 4. _____

33 _____

34 _____

35 9. Does the Garnishee expect to obtain in the foreseeable future custody,
36 control or possession of property (other than earnings) such as bank accounts,
37 pensions, thrift plans, etc., in which the Defendant maintains an interest? Yes _____
38 No _____ If the answer is yes, then provide the following information for each item of
39 such property:

40 Description of
41 Property

42 Approximate
Value

43 Description of
Defendant's Interest

44 Date Will
Obtain
Property

45 1. _____

46 _____

47 _____

48 _____

49 2. _____

50 _____

51 _____

52 _____

53 3. _____

54 _____

55 _____

56 _____

57 4. _____

58 _____

59 _____

60 _____

61 28

1 10. Does the Garnishee have any objections or defenses to the Writ of
2 Continuing Garnishment? Yes No If the answer is yes, list the nature
3 and basis of each objection and/or defense:

9 On behalf of Kaiser Permanente, I hereby certify under penalty of perjury under
10 the laws of the United States of America that the foregoing is true and correct.

12 || Dated:

By:

(Sign above and type or print name
below)

CERTIFICATE OF SERVICE

2 I, _____, declare:

3 That I am a citizen of the United States and employed in the County of

4 _____, California; that my business address is

5 _____; that I am

6 over the age of eighteen years; and that I am not a party to the above-entitled action;

7 That on _____ (date), I deposited in the United States mail, in

8 envelopes bearing the requisite postage, a copy of:

ANSWER OF GARNISHEE

10 addressed to each of the following, at their last known addresses, at which place

11 there is service by United States mail.

12 Kimberly A. Avila aka Kimberly A. Sobiech
20446 Forest Avenue Apt.#13
13 Castro Valley, CA 94546

14 Michael Cosentino
Attorney at Law
15 P.O. Box 129
Alameda, CA 94501
16

17 This Certificate was executed on _____ (date).

18 at _____ (city), California.

19 I certify under penalty of perjury that the foregoing is true and correct.

(sign above and type or print name
below)